

**UNITED STATES DISTRICT  
DISTRICT OF MASSACHUSETTS**

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DISTRICT COURT  
DISTRICT OF MASS.

Sprint Spectrum Limited Partnership )  
Plaintiff, )  
 )  
v. )  
 )  
City of Lawrence, Massachusetts, )  
Zoning Board of Appeals, of the City of Lawrence, )  
and Francis Audy, Richard Consoli, Gayle Williams, )  
Joseph Sirois, April Lyskowsky, Kemal Bozkurt, )  
and Ricky Speller, as they are voting and associate )  
voting members of the Zoning Board of Appeals, )  
Defendants. )

04-10813 GAO

**DEFENDANT'S ANSWER**

1. The Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 1 of the Plaintiff's Complaint and call upon Plaintiff to prove same. Moreover, the Complaint and the "Decision" (Exhibit 1) speak for themselves.
2. The Defendants are without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**JURISDICTION**

3. Paragraph 3 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.
4. Paragraph 4 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.

**THE PARTIES**

5. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 5 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

6. Admitted.
7. The Defendants admit the Board is a duly constituted Board of the City, but state that its office address is 147 Haverhill Street, Lawrence, MA 10840.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.
15. The Defendants state that the Decision speaks for itself.
16. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 16 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
17. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 17 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
18. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 18 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
19. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 19 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
20. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 20 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
21. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 21 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**THE ZONING ORDINANCE OF THE CITY OF LAWRENCE**

- 22. Admitted.
- 23. Admitted.
- 24. Admitted.
- 25. Admitted.
- 26. Admitted.

**ATTEMPT TO LOCATE A COMPLYING SITE**

- 27. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 27 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 28. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 28 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 29. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 29 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 30. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 30 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**THE PROPOSED SITE AND CO-LOCATION**

- 31. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 31 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 32. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 32 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 33. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 33 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

34. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 34 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
35. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 35 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
36. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 36 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
37. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 37 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**THE PROCEEDINGS BEFORE THE BOARD**

38. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 38 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
39. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 39 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
40. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 40 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
41. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 41 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
42. The Defendants deny the allegations contained in Paragraph 42 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
43. Admitted.
44. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 44 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
45. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 45 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

46. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 46 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
47. Admitted.
48. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 48 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
49. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 49 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
50. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 50 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
51. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 51 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
52. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 52 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
53. Admitted.
54. Admitted.
55. Admitted.
56. The Defendants deny the allegations contained in Paragraph 56 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
57. The Defendants deny the allegations contained in Paragraph 57 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
58. The Defendants deny the allegations contained in Paragraph 58 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
59. The Defendants deny the allegations contained in Paragraph 59 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

- 60. The Defendants deny the allegations contained in Paragraph 60 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 61. The Defendants deny the allegations contained in Paragraph 61 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 62. The Defendants deny the allegations contained in Paragraph 62 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**THE TELECOMMUNICATIONS ACT OF 1996**

- 63. Paragraph 63 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.
- 64. Paragraph 64 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.

**IRREPARABLE HARM**

- 65. The Defendants deny the allegations contained in Paragraph 65 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 66. The Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 66 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 67. The Defendants deny the allegations contained in Paragraph 67 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 68. The Defendants deny the allegations contained in Paragraph 68 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**COUNT I**

**(TELECOMMUNICATIONS ACT OF 1996-EFFECTIVE PROHIBITION)**

- 69. The Defendants repeat and reaffirm their answers to Paragraphs 1-68 of the Plaintiff's Complaint as though each were separately set forth herein.
- 70. Paragraph 70 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.
- 71. The Defendants deny the allegations contained in Paragraph 71 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

- 72. The Defendants deny the allegations contained in Paragraph 72 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 73. The Defendants deny the allegations contained in Paragraph 73 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**COUNT II**  
**(TELECOMMUNICATIONS ACT OF 1996**  
**NO SUBSTANTIAL EVIDENCE FOR DENIAL)**

- 74. The Defendants repeat and reaffirm their answers to Paragraphs 1-73 of the Plaintiff's Complaint as though each were separately set forth herein.
- 75. Paragraph 75 of the Plaintiff's Complaint calls for a conclusion of law, and, as such, no response is required. To the extent a response is required, Defendants deny same and call upon Plaintiff to prove the matters alleged.
- 76. The Defendants deny the allegations contained in Paragraph 76 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**COUNT III**  
**(CHAPTER 40A, SECTION 17)**

- 77. The Defendants repeat and reaffirm their answers to Paragraphs 1-76 of the Plaintiff's Complaint as though each were separately set forth herein.
- 78. The Defendants deny the allegations contained in Paragraph 78 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

**COUNT IV**  
**(DECLARATORY JUDGMENT)**

- 79. The Defendants repeat and reaffirm their answers to Paragraphs 1-78 of the Plaintiff's Complaint as though each were separately set forth herein.
- 80. The Defendants deny the allegations contained in Paragraph 80 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 81. The Defendants deny the allegations contained in Paragraph 81 of the Plaintiff's Complaint and call upon Plaintiff to prove same.
- 82. The Defendants deny the allegations contained in Paragraph 82 of the Plaintiff's Complaint and call upon Plaintiff to prove same.

WHEREFORE, the Defendants request that the Plaintiff's Complaint be denied without interest, costs or attorneys fees and that the Plaintiffs requests for declaratory and injunctive relief be denied.

**AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

The Complaint fails to state a claim against the Defendant upon which relief may be granted.

**SECOND DEFENSE**

The Defendant says that there is an insufficiency in the service of process on the Defendant.

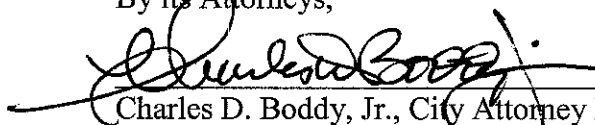
**THIRD DEFENSE**

The Plaintiffs' claims are barred by the Statue of Limitations.

**FOURTH DEFENSE**

The Plaintiffs' claims are barred by the Doctrine of Laches.

Respectfully submitted,  
City of Lawrence  
By its Attorneys,

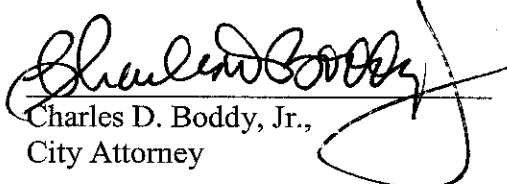


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Lawrence, MA 01840  
978-794-5800

Dated: April 27, 2004

**CERTIFICATE OF SERVICE**

I, Charles D. Boddy, Jr., City Attorney, certify that on this day of April 2004, I served a copy of the foregoing document on all counsel of record via first class mail, postage prepaid.



Charles D. Boddy, Jr.,  
City Attorney